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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/592,563

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EXAMINER

NGUYEN, LEE

ART UNIT

PAPER NUMBER

2618

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/592,563	Applicant(s) KINSELLA, MIKE	
	Examiner LEE NGUYEN	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 and 29-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27, 29-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 4/27/07 has been entered.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 9, 11, 15, 17-19 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by the prior art admitted by Fraccaroli (US 6,549,768).

Regarding claim 1, the admitted prior art of Fraccaroli teaches a message pushing system for sending messages to recipients, the system comprising a database of user profiles of individual potential recipients (col. 1, line 29), inherently including telecommunications links for communicating with message sending and message receiving devices (e-mail, col. 1, line 47). It is noted that the phrases "adapted to" and "wherein" are not giving weight.

Regarding claims 2-3, the admitted prior art of Fraccaroli also teaches that the details of individual potential recipients including their sex, their hair length and color, their eye color, their age, their height (col. 1, line 32-35).

Regarding claim 4, the admitted prior art of Fraccaroli further teaches including one or more of the e-mail address (col. 1, line 47).

Regarding claims 9, 11, the admitted prior art inherently teaches updating their details (col. 1, lines 32-34, see age, marital status, interests, which can be changed in the future).

Regarding claim 15, the admitted prior art also teaches that one device can function as both a message sending means and a message receiving means (e-mail, col. 1, line 47).

Regarding 17, the admitted prior art also teaches the communication link including the Internet, which inherently includes receiving and sending message (col. 1, line 46).

Regarding claim 18, the admitted prior art also teaches e-mail (col. 1, line 49).

Regarding claim 19, the admitted prior art also teaches relational database (col. 1, line 27-30).

Regarding claim 22, the admitted prior art also teaches a plurality of message sending and message receiving means, adapted to send messages to and receive message from the message pushing system (col. 1, lines 34-35).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-8, 10, 12-14, 16, 20-21, 23-27, 29-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art admitted by Fraccaroli in view of Fraccaroli.

Regarding claims 5-6, the admitted prior art fails to teach that the database also includes information about the current location of the recipient. According to Fraccaroli, the database also includes information about the current location of the recipient (col. 10, lines 25-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Fraccaroli to the admitted prior art in order to provide the sender with the most updated information.

Regarding claims 7-8, the admitted prior art as modified also frequently visited locations which including previous locations in the frequently visited locations(col. 10, line 26).

Regarding claim 10, the admitted prior art as modified also teaches updating their details automatically (col. 9, line 66 – col. 10, line 3, location update).

Regarding claim 12, the admitted prior art as modified also teaches allowing messages to be delivered to recipients without the sender of the message knowing the identity of the recipient (col. 2, line 52).

Regarding claims 13-14, the admitted prior art as modified also teaches that the comparison between the details of the potential recipient and member's details on the database does not need to be exact and how close a match between details is required for that message to be sent to that potential recipient (col. 8, lines 43-46).

Regarding claim 16, the admitted prior art as modified also teaches mobile communication (fig. 1, numeral 102). The admitted prior art fails to teach using WAP or I-MODE. It is taken official notice that the art using Wireless Access Protocol in mobile communication is conventionally well known and considered as a standard. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include WAP to the system of the admitted prior art in order to allow mobile to access to the Web.

Regarding claim 20, the admitted prior art as modified also teaches that the message is transmitted to the recipient or recipients only on request from the recipient or recipients (willingness, col. 2, line 58).

Regarding claim 21, the admitted prior art as modified also teaches that a web site is used to display the message (col. 8, line 52).

Regarding the independent method claim 23, the claim is interpreted and rejected for the same reason as set forth in claims 2 and 5. The admitted prior also teaches interrogating the database to find user profiles matching said details of the appearance and location of the intended recipient, thereby identifying one or more possible intended recipients (col. 9, lines 50-65). It is noted that in col. 9, lines 50-65, Fraccaroli also teaches the request profile, rather than the matching profile.

Regarding claim 24, the claim is interpreted and rejected for the same reason as set forth in claim 2.

Regarding claims 25-26, the claims are interpreted and rejected for the same reason as set forth in claim 3.

Regarding claim 27, the claim is interpreted and rejected for the same reason as set forth in claim 4.

Regarding claim 29, the claim is interpreted and rejected for the same reason as set forth in claim 6.

Regarding claim 30, the claim is interpreted and rejected for the same reason as set forth in claim 7.

Regarding claim 31, the claim is interpreted and rejected for the same reason as set forth in claim 8.

Regarding claim 33, the claim is interpreted and rejected for the same reason as set forth in claim 9.

Regarding claim 34, the claim is interpreted and rejected for the same reason as set forth in claim 10.

Regarding claim 35, the claim is interpreted and rejected for the same reason as set forth in claim 11.

Regarding claim 36, the claim is interpreted and rejected for the same reason as set forth in claim 12.

Regarding claim 37, the claim is interpreted and rejected for the same reason as set forth in claim 13.

Regarding claim 38, the claim is interpreted and rejected for the same reason as set forth in claim 14.

Regarding claim 39, the claim is interpreted and rejected for the same reason as set forth in claim 15.

Regarding claim 40, the claim is interpreted and rejected for the same reason as set forth in claim 16.

Regarding claim 41, the claim is interpreted and rejected for the same reason as set forth in claim 17.

Regarding claim 42, the claim is interpreted and rejected for the same reason as set forth in claim 18.

Regarding claim 43, the claim is interpreted and rejected for the same reason as set forth in claim 19.

Regarding claim 44, the claim is interpreted and rejected for the same reason as set forth in claim 20.

Regarding claim 45, the claim is interpreted and rejected for the same reason as set forth in claim 21.

Regarding claim 46, the claim is interpreted and rejected for the same reason as set forth in claim 1 in which Fraccaroli also teaches a plurality of communication links (see links between mobiles 102 and cell 104 in figure 1).

Response to Arguments

2. Applicant's arguments filed 4/27/07 have been fully considered but they are not persuasive.

In the remarks, Applicant contends that the Fraccaroli system does not compare details in a message sent by a requesting party to user profiles of potential recipients, as recited in claims 1 and 46. Instead, the Fraccaroli system compares the user profile of the requesting party to the profiles of potential recipients. In addition, the Fraccaroli does not send the original message sent by the requesting party to the potential recipients, as recited in claims 1 and 46. Instead, the Fraccaroli system only sends the profile of the requesting party to the potential matches.

In response, as noted above, that the phrases "adapted to" and "wherein" are not giving weight.

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Regarding the rejection of claim 23, Applicant argues that Fraccaroli only compares the user profile of a registered user to the user profiles of other users in the database.


Fraccaroli fails to disclose or suggest comparing details in a message sent by a requesting party to user profiles in a database to identify intended recipients. Thus, Fraccaroli cannot perform the method recited in claim 23. The differences also mean that a method as recited in claim 23 can be used to identify possible intended recipients for a requesting party that has not registered with the system and that has not input a profile. All features which the Fraccaroli system would not allow.

In response, again, referring back to previous rejection, the admitted prior art of Fraccaroli also teaches that In addition to their own matching profile, each customer can also submit a **request which contains their preferences** for a match with the matching profiles of other customers. In response to the **request**, the computer dating service searches the database for matching **profiles** which match the **preferences** in the request and then informs the requesting customer of the selected matches, if any (col. 1, lines 35-42). Therefore, Fraccaroli also teaches that the user does not have to always register his preferences.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is 571-272-7854. The examiner can normally be reached on 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANDERSON D. MATTHEW can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


LEE NGUYEN
Primary Examiner
Art Unit 2618